

## **DEPARTMENT OF HOMELAND SECURITY (DHS)**

### **Fall 2021 Statement of Regulatory Priorities**

The Department of Homeland Security (DHS or Department) was established in 2003 pursuant to the Homeland Security Act of 2002, Public Law 107-296. The DHS mission statement contains these words:

“With honor and integrity, we will safeguard the American people, our homeland, and our values.”

DHS was created in the aftermath of the horrific attacks of 9/11, and its distinctive mission is defined by that commitment. The phrase “homeland security” refers to the security of the American people, the homeland (understood in the broadest sense), and the nation’s defining values. A central part of the mission of protecting “our values” includes fidelity to law and the rule of law, reflected above all in the Constitution of the United States, and also in statutes enacted by Congress, including the Administrative Procedure Act. That commitment is also associated with a commitment to individual dignity. Among other things, the attacks of 9/11 were attacks on that value as well.

The regulatory priorities of DHS are founded on insistence on the rule of law -- and also on a belief that individual dignity, symbolized and made real by the opening words of the Constitution (“We the People”), the separation of powers, and the Bill of Rights (including the Due Process Clause), helps to define our mission.

Fulfilling that mission requires the dedication of more than 240,000 employees in jobs that range from aviation and border security to emergency response, from cybersecurity analyst to chemical facility inspector, from the economist seeking to identify the consequences of our actions to the scientist and policy analyst seeking to make the nation more resilient against flooding, drought, extreme heat, and wildfires. Our duties are wide-ranging, but our goal is clear: keep America safe.

Six overarching homeland security missions make up DHS's strategic plan: (1) Counter terrorism and homeland security threats; (2) secure U.S. borders and approaches; (3) secure cyberspace and critical infrastructure; (4) preserve and uphold the Nation's prosperity and economic security; (5) strengthen preparedness and resilience (including resilience from risks actually or potentially aggravated by climate change); and (6) champion the DHS workforce and strengthen the Department. See also 6 U.S.C. 111(b)(1) (identifying the primary mission of the Department). In promoting these goals, we attempt to evaluate our practices by reference to evidence and data, not by hunches and guesswork, and to improve them in real time. We also attempt to deliver our multiple services in a way that, at once, protects the American people and does not impose excessive or unjustified barriers and burdens on those who use them,

In achieving those goals, we are committed to public participation and to listening carefully to the American people (and to noncitizens as well). We are continually strengthening our partnerships with communities, first responders, law enforcement, and Government agencies—at the Federal, State, local, tribal, and international levels. We are accelerating the deployment of science, technology, and innovation in order to make America more secure against risks old and new -- and to perform our services better. We are becoming leaner, smarter, and more efficient, ensuring that every security resource is used as effectively as possible. For a further discussion of our mission, see the DHS website at <https://www.dhs.gov/mission>.

The regulations we have summarized below in the Department's Fall 2021 Regulatory Plan and Agenda support the Department's mission. We are committed to continuing evaluation of our regulations, consistent with Executive Order 13563, and Executive Order 13707, and in a way that improves them over time. These regulations will improve the Department's ability to accomplish its mission. In addition, these regulations respond to and implement legislative initiatives such as those found in the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), FAA Extension, Safety, and Security Act of 2016, and the Synthetics Trafficking and Overdose Prevention Act of 2018 (STOP Act). We emphasize here our commitments (1) To fidelity to law; (2) to treating people with dignity and respect; (3)

to increasing national resilience against multiple risks and hazards, including those actually or potentially associated with climate change; (4) to modernization of existing requirements; and (5) to reducing unjustified barriers and burdens, including administrative burdens.

DHS strives for organizational excellence and uses a centralized and unified approach to managing its regulatory resources. The Office of the General Counsel manages the Department's regulatory program, including the agenda and regulatory plan. In addition, DHS senior leadership reviews each significant regulatory project in order to ensure that the project fosters and supports the Department's mission.

The Department is committed to ensuring that all of its regulatory initiatives are aligned with its guiding principles to protect civil rights and civil liberties, integrate our actions, listen to those affected by our actions, build coalitions and partnerships, eliminate unjustified burdens and barriers, develop human resources, innovate, and be accountable to the American public.

DHS is strongly committed to the principles described in Executive Orders 13563 and 12866 (as amended). Both Executive Orders direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13563 explicitly draws attention to human dignity and to equity.

Finally, the Department values public involvement in the development of its regulatory plan, agenda, and regulations. It is particularly concerned with the impact its regulations have on small businesses and startups, consistent with its commitment to promoting economic growth. Consistent with President Biden's *Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (EO 13985). DHS is also concerned to ensure that its regulations are equitable, and that they do not have unintended or adverse effects on (for example) women, disabled people, people of color, or the elderly. Its general effort to modernize regulations, and to remove unjustified barriers and

burdens, is meant in part to avoid harmful effects on small businesses, startups, and disadvantaged groups of multiple sorts. DHS and its components continue to emphasize the use of plain language in our regulatory documents to promote a better understanding of regulations and to promote increased public participation in the Department's regulations. We want our regulations to be transparent and "navigable," so that people are aware of how to comply with them (and in a position to suggest improvements).

The Fall 2021 regulatory plan for DHS includes regulations from multiple DHS components, including U.S. Citizenship and Immigration Services (USCIS), the U.S. Coast Guard (the Coast Guard), U.S. Customs and Border Protection (CBP), Transportation Security Administration (TSA), the U.S. Immigration and Customs Enforcement (ICE), the Federal Emergency Management Agency (FEMA), and the Cybersecurity and Infrastructure Security Agency (CISA). We next describe the regulations that comprise the DHS fall 2021 regulatory plan.

### **Federal Emergency Management Agency**

The Federal Emergency Management Agency (FEMA) is the government agency responsible for helping people before, during, and after disasters. FEMA supports the people and communities of our Nation by providing experience, perspective, and resources in emergency management. FEMA is particularly focused on national resilience in the face of the risks of flooding, drought, extreme heat, and wildfire; it is acutely aware that these risks, and others, are actually or potentially aggravated by climate change. FEMA seeks to ensure, to the extent possible, that changing weather conditions do not mean a more vulnerable nation. FEMA is also focused on individual equity, and it is aware that administrative burdens and undue complexity might produce inequitable results in practice.

Consistent with President Biden's *Executive Order on Climate Related Financial Risk* (EO 14030), FEMA will propose a regulation titled *National Flood Insurance Program: Standard Flood Insurance Policy, Homeowner Flood Form*. The National Flood Insurance Program (NFIP), established pursuant to the National Flood Insurance Act of 1968, is a voluntary program in which participating communities adopt and enforce a set of minimum floodplain management requirements to reduce future flood damages.

This proposed rule would revise the Standard Flood Insurance Policy by adding a new Homeowner Flood Form and five accompanying endorsements. The new Homeowner Flood Form would replace the Dwelling Form as a source of coverage for one-to-four family residences. Together, the new Form and endorsements would more closely align with property and casualty homeowners' insurance and provide increased options and coverage in a more user-friendly and comprehensible format.

FEMA will also propose a regulation titled *Individual Assistance Program Equity* to further align with Executive Order 13895. Climate change results in more frequent and/or intense extreme weather events like severe storms, flooding and wildfires, disproportionately impacting the most vulnerable in society. FEMA will propose to amend its Individual Assistance (IA) regulations to increase equity and ease of entry to the IA Program. To provide a full opportunity for underserved communities to participate, FEMA will propose to amend application of "safe, sanitary, and functional" for IA repair assistance; re-evaluate the requirement to apply for a Small Business Administration loan prior to receipt of Other Needs Assistance; add eligibility criteria for its Serious Needs & Displacement Assistance; amend its requirements for Continued Temporary Housing Assistance; re-evaluate its approach to insurance proceeds; and amend its appeals process. FEMA will also propose revisions to reflect changes to statutory authority that have not yet been implemented in regulation, to include provisions for utility and security deposit payments, lease and repair of multi-family rental housing, childcare assistance, and maximum assistance limits.

FEMA will issue a regulation titled *Amendment to the Public Assistance Program's Simplified Procedures Large Project Threshold*. It will revise its regulations governing the Public Assistance program to update the monetary threshold at or below which FEMA will obligate funding based on an estimate of project costs, and above which FEMA will obligate funding based on actual project costs. This rule will ensure FEMA and recipients can more efficiently process unobligated Project Worksheets for COVID-19 declarations, which continue to fund important pandemic-related work, while avoiding unnecessary confusion and administrative burden by not affecting previous project size determinations.

On October 12, 2021, FEMA issued a Request for Information to receive the public's input on revising the NFIP's floodplain management standards for land management and use regulations to better align with the current understanding of flood risk and flood risk reduction approaches, as directed by Executive Order 14030. FEMA seeks input on the floodplain management standards that communities should adopt to result in safer, stronger, and more resilient communities. Additionally, FEMA seeks input on how the NFIP can better promote protection of and minimize any adverse impact to threatened and endangered species, and their habitats.

### **United States Citizenship and Immigration Services**

U.S. Citizenship and Immigration Services (USCIS) is the government agency that administers the nation's lawful immigration system, safeguarding its integrity and promise by efficiently and fairly adjudicating requests for immigration benefits while protecting Americans, securing the homeland, and honoring our values. USCIS is committed to taking the necessary steps to reduce barriers to legal immigration, increase access to immigration benefits (consistent with law), and reinvigorate the size and scope of humanitarian relief. In the coming year, USCIS intends to pursue several regulatory actions that support these goals while balancing our fiscal stability.

*Asylum Reforms.* This Administration is focused on pursuing regulations to rebuild and streamline the asylum system, consistent with President Biden's *Executive Order on Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border* (EO 14010). On August 20, 2021, DHS/USCIS and DOJ/Executive Office of Immigration Review (EOIR) jointly proposed regulatory amendments that aim to accelerate the adjudication process for individuals in expedited removal proceedings who are seeking asylum, withholding of removal, or protection under the Convention Against Torture. The current system in place has resulted in unsustainable backlogs that span many years. USCIS and EOIR will seek to issue a final rule that makes concrete and lasting improvements in the processing of those cases after considering public input received on the proposed rule. (*Procedures for Credible Fear Screening and Consideration of Asylum,*

*Withholding of Removal, and CAT Protection Claims by Asylum Officers*). In addition, USCIS will propose regulations to remove barriers to affirmative asylum claims, while also proposing processing timeframes for initial application for employment authorization applications filed by pending asylum applicants that reflect the operational capabilities of USCIS. (*Rescission of “Asylum Application, Interview, & Employment Authorization” Rule and Change to “Removal of 30-Day Processing Provision for Asylum Applicant Related Form I-765 Employment Authorization”*). USCIS and EOIR will also take steps to remove or modify regulatory provisions that have created unnecessary hurdles in the asylum system, many of which are currently enjoined by various courts. (*Bars to Asylum Eligibility and Procedures; Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review*). Finally, USCIS and EOIR will jointly propose updates to their regulations to clarify eligibility for asylum and withholding, and better describe the circumstances in which a person should be considered a member of a “particular social group.” (*Asylum and Withholding Definitions*).

*Review of the Public Charge of Inadmissibility Ground.* On August 23, 2021, USCIS published an Advance Notice of Proposed Rulemaking (ANPRM) to gather input from interested and impacted stakeholders on how USCIS should implement the public charge ground of inadmissibility. This action was the first step taken in response to President Biden’s *Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans* (EO 14012). USCIS will propose regulations to define the term “public charge” and to identify considerations relevant to the public charge inadmissibility determination, while recognizing that we must continue to be a Nation of opportunity and of welcome, and that we must provide due consideration to the confusion, fear, and negative public health consequences that may result from public charge policies. (*Inadmissibility on Public Charge Grounds*).

*Deferred Action for Childhood Arrivals (DACA).* On September 28, 2021, USCIS issued a proposed rule that establishes specified guidelines for considering requests for deferred action submitted by certain individuals who entered the United States many years ago as children. The proposed rule invites public comments on a number of issues relating to DACA, including issues identified in a recent decision of the

U.S. District Court for the Southern District of Texas court regarding DHS's authority to maintain the DACA policy, and possible alternatives. In keeping with President Biden's *Presidential Memorandum: Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)*, USCIS will consider public comments and seek to finalize the proposed rule in the coming months (*Deferred Action for Childhood Arrivals*).

*Improvements to the Overall Immigration System.* After performing the required biennial fee review, USCIS will propose adjustments to certain immigration and naturalization benefit request fees to ensure that fees recover full costs borne by the agency. In doing so, USCIS will adhere to the ideals described in Executive Orders 14010 and 14012 of removing barriers and promoting access to the immigration system; improving and expanding naturalization processing; and meeting the administration's humanitarian priorities. (*U.S. Citizenship and Immigration Services Fee Schedule*).

### **United States Coast Guard**

The Coast Guard is a military, multi-mission, maritime service of the United States and the only military organization within DHS. It is the principal Federal agency responsible for maritime safety, security, and stewardship in U.S. ports and waterways.

Effective governance in the maritime domain hinges upon an integrated approach to safety, security, and stewardship. The Coast Guard's policies and capabilities are integrated and interdependent, delivering results through a network of enduring partnerships with maritime stakeholders. Consistent standards of universal application and enforcement, which encourage safe, efficient, and responsible maritime commerce, are vital to the success of the maritime industry. The Coast Guard's ability to field versatile capabilities and highly trained personnel is one of the U.S. Government's most significant and important strengths in the maritime environment.

America is a maritime nation, and our security, resilience, and economic prosperity are intrinsically linked to the oceans. Safety, efficient waterways, and freedom of transit on the high seas are essential to our



well-being. The Coast Guard is leaning forward, poised to meet the demands of the modern maritime environment. The Coast Guard creates value for the public through solid prevention and response efforts. Activities involving oversight and regulation, enforcement, maritime presence, and public and private partnership foster increased maritime safety, security, and stewardship.

The statutory responsibilities of the Coast Guard include ensuring marine safety and security, preserving maritime mobility, protecting the marine environment, enforcing U.S. laws and international treaties, and performing search and rescue. The Coast Guard supports the Department's overarching goals of mobilizing and organizing our Nation to secure the homeland from terrorist attacks, natural disasters, and other emergencies. These goals include protection against the risks associated with climate change, and the Coast Guard seeks to obtain scientific information to assist in that task, while also acting to promote resilience and adaptation.

The Coast Guard highlights the following regulatory actions:

*Shipping Safety Fairways Along the Atlantic Coast.* The Coast Guard published an ANPRM on June 19, 2020. The Coast Guard is reviewing comments to help develop a proposed rule that would establish shipping safety fairways (fairways) along the Atlantic Coast of the United States. Fairways are marked routes for vessel traffic. They facilitate the direct and unobstructed transit of ships. The proposed fairways will be based on studies about vessel traffic along the Atlantic Coast. The Coast Guard is taking this action to ensure that obstruction-free routes are preserved to and from U.S. ports and along the Atlantic coast and to reduce the risk of collisions, allisions and grounding, as well as alleviate the chance of increased time and expenses in transit.

*Electronic Chart and Navigation Equipment Carriage Requirements.* The Coast Guard will seek comment on the modification of its chart and navigational equipment regulations. We plan to publish an ANPRM that outlines the Coast Guard's strategy to revise the chart and navigational equipment requirements for all commercial U.S.-flagged vessels and foreign-flagged vessels operating in the waters of the United

States to fulfill the electronic chart use requirements as required by statute. Acceptable standards and capabilities need to be clarified before paper charts are discontinued and replaced by digital electronic navigation charts. The ANPRM should provide us with information on how widely electronic charts are used, who is using them, the appropriate equipment requirements for different vessel classes, and where they operate. The public comments should better enable us to tailor proposed electronic charts requirements to vessel class and location.

*MARPOL Annex VI; Prevention of Air Pollution from Ships.* The Coast Guard is proposing regulations to carry out the provisions of Annex VI of the MARPOL Protocol, which is focused on the prevention of air pollution from ships. The Act to Prevent Pollution from Ships has already given direct effect to most provisions of Annex VI, and the Coast Guard and the Environmental Protection Agency have carried out some Annex VI provisions through previous rulemakings. This proposed rulemaking would fill gaps in the existing framework for carrying out the provisions of Annex VI. Chapter 4 of Annex VI contains shipboard energy efficiency measures that include short-term measures reducing carbon emissions linked to climate change and supports Administration goals outlined in Executive Order 14008 titled Tackling the Climate Crisis at Home and Abroad. This proposed rulemaking would apply to U.S.-flagged ships. It would also apply to foreign-flagged ships operating either in U.S. navigable waters or in the U.S. Exclusive Economic Zone.

### **United States Customs and Border Protection**

Customs and Border Protection (CBP) is the Federal agency principally responsible for the security of our Nation's borders, both at and between the ports of entry into the United States. CBP must accomplish its border security and enforcement mission without stifling the flow of legitimate trade and travel. The primary mission of CBP is its homeland security mission, that is, to prevent terrorists and terrorist weapons from entering the United States. An important aspect of this mission involves improving security at our borders and ports of entry, but it also means extending our zone of security beyond our physical borders.

CBP is also responsible for administering laws concerning the importation of goods into the United States and enforcing the laws concerning the entry of persons into the United States. This includes regulating and facilitating international trade; collecting import duties; enforcing U.S. trade, immigration and other laws of the United States at our borders; inspecting imports; overseeing the activities of persons and businesses engaged in importing; enforcing the laws concerning smuggling and trafficking in contraband; apprehending individuals attempting to enter the United States illegally; protecting our agriculture and economic interests from harmful pests and diseases; servicing all people, vehicles, and cargo entering the United States; maintaining export controls; and protecting U.S. businesses from theft of their intellectual property.

In carrying out its mission, CBP's goal is to facilitate the processing of legitimate trade and people efficiently without compromising security. Consistent with its primary mission of homeland security, CBP intends to issue several regulations that are intended to improve security at our borders and ports of entry. During the upcoming year, CBP will also work on various projects to streamline CBP processing, reduce duplicative processes, reduce various burdens on the public, and automate various paper forms. Below, CBP provides highlights of certain planned actions for the coming fiscal year.

*Implementation of the Electronic System for Travel Authorization (ESTA) at U.S. Land Borders – Automation of CBP Form I-94W.* CBP intends to amend existing regulations to implement the ESTA requirements under the Implementing Recommendations of the 9/11 Commission Act of 2007 for noncitizens who intend to enter the United States under the Visa Waiver Program (VWP) at land ports of entry. Currently, noncitizens from VWP countries must provide certain biographic information to U.S. CBP officers at land ports of entry on a paper form. Under this rule, these VWP travelers would instead provide this information to CBP electronically through ESTA prior to application for admission to the United States. In addition to fulfilling a statutory mandate, this rule will strengthen national security through enhanced traveler vetting, will streamline the processing of visitors, will reduce inadmissible traveler arrivals, and will save time for both travelers and the government. (Note: There is no associated

Regulatory Plan entry for this rule because this rule is non-significant under Executive Order 12866.

There is an entry, however, in the Unified Agenda.)

*Automation of CBP Form I-418 for Vessels.* CBP intends to amend existing regulations regarding the submission of Form I-418, Passenger List - Crew List. Currently, the master or agent of every commercial vessel arriving in the United States, with limited exceptions, must submit a paper Form I-418 to CBP at the port where immigration inspection is performed. Most commercial vessel operators are also required to submit a paper Form I-418 to CBP at the final U.S. port prior to departing for a foreign port. Under this rule, most vessel operators would be required to electronically submit the data elements on Form I-418 to CBP through the National Vessel Movement Center in lieu of submitting a paper form. This rule would eliminate the need to file the paper Form I-418 in most cases. This rule is included in this narrative because it reduces administrative and paperwork burdens on the regulated public. (Note: There is no associated Regulatory Plan entry for this rule because this rule is non-significant under Executive Order 12866. There is an entry, however, in the Unified Agenda.)

*Advance Passenger Information System: Electronic Validation of Travel Documents.* CBP intends to amend current Advance Passenger Information System (APIS) regulations to incorporate additional carrier requirements that would further enable CBP to determine whether each passenger is traveling with valid, authentic travel documents prior to the passenger boarding the aircraft. The proposed regulation would require commercial air carriers to receive a second message from CBP that would state whether CBP matched the travel documents of each passenger to a valid, authentic travel document recorded in CBP's databases. The proposed regulation would also require air carriers to transmit additional data elements regarding contact information through APIS for all commercial aircraft passengers arriving in the United States to support border operations and national security. CBP expects that the collection of these elements would enable CBP to further support the Center for Disease Control and Prevention's (CDC's) mission in monitoring and tracing the contacts for persons involved in health incidents (e.g., COVID-19). This action will result in time savings to passengers and cost savings to CBP, carriers, and the public.

In addition to the regulations that CBP issues to promote DHS's mission, CBP issues regulations related to the mission of the Department of the Treasury. Under section 403(1) of the Homeland Security Act of 2002, the former-U.S. Customs Service, including functions of the Secretary of the Treasury relating thereto, transferred to the Secretary of Homeland Security. As part of the initial organization of DHS, the Customs Service inspection and trade functions were combined with the immigration and agricultural inspection functions and the Border Patrol and transferred into CBP. The Department of the Treasury retained certain regulatory authority of the U.S. Customs Service relating to customs revenue function. In the coming year, CBP expects to continue to issue regulatory documents that will facilitate legitimate trade and implement trade benefit programs. For a discussion of CBP regulations regarding the customs revenue function, see the regulatory plan of the Department of the Treasury.

### **Transportation Security Administration**

The Transportation Security Administration (TSA) protects the Nation's transportation systems to ensure freedom of movement for people and commerce. TSA applies an intelligence-driven, risk-based approach to all aspects of its mission. This approach results in layers of security to mitigate risks effectively and efficiently. TSA seeks to ensure ever-improving "customer service" so as to improve the experience of the many millions of travelers whom it serves. In fiscal year 2022, TSA is prioritizing the following actions that are required to meet statutory mandates and that are necessary for national security.

*Vetting of Certain Surface Transportation Employees.* TSA will propose a rule that requires security threat assessments for security coordinators and other frontline employees of certain public transportation agencies (including rail mass transit and bus systems), railroads (freight and passenger), and over-the-road bus owner/operators. The NPRM will also propose provisions to implement TSA's statutory requirement to recover its cost of vetting user fees. While many stakeholders conduct background checks on their employees, their actions are limited based upon the data they can access. Through this rule, TSA will be able to conduct a more thorough check against terrorist watch-lists of individuals in security-sensitive positions.

*Flight Training Security.* In 2004, TSA published an Interim Final Rule (IFR) that requires flight schools to notify TSA when noncitizens, and other individuals designated by TSA, apply for flight training or recurrent training. TSA subsequently issued exemptions and interpretations in response to comments on the IFR, questions raised during operation of the program since 2004, and a notice extending the comment period on May 18, 2018. Based on the comments and questions received, TSA is finalizing the rule with modifications. TSA is considering modifications that would change the frequency of security threat assessments from a high-frequency event-based interval to a time-based interval, clarify the definitions and other provisions of the rule, and enable industry to use TSA-provided electronic recordkeeping systems for all documents required to demonstrate compliance with the rule.

*Indirect Air Carrier Security.* Current regulations for Indirect Air Carriers (IACs) require annual renewal of the IAC's security program and prompt notification to TSA of any changes to operations related to information previously provided to TSA. This rule will propose a three-year renewal schedule, rather than annual renewal. This change will align the security program renewal requirement with those applicable to other regulated entities within the air cargo industry. These changes will not have a negative impact on security as TSA will maintain the requirement to notify the agency of changes to operations and will continue its robust inspection and compliance program. TSA believes this action will reduce burdens on an industry affected by the COVID-19 public health crisis and enhance the industry's ability to focus limited human resources on the core tasks of moving air cargo.

*Cybersecurity Requirements for Certain Surface Owner/Operators.* On July 28, 2021, the President issued the National Security Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems. Consistent with that Memorandum and in response to the ongoing cybersecurity threat to pipeline systems, TSA issued security directives to owners and operators of TSA-designated critical pipelines that transport hazardous liquids and natural gas. The security directives implement urgently needed protections against cyber intrusions. The first directive, issued in May 2021, requires critical owner/operators to (1) Report confirmed and potential cybersecurity incidents to DHS's Cybersecurity and Infrastructure Security Agency

(CISA); (2) designate a Cybersecurity Coordinator to be available 24 hours a day, seven days a week; (3) review current cybersecurity practices; and (4) identify any gaps and related remediation measures to address cyber-related risks and report the results to TSA and CISA within 30 days of issuance of the security directive. A second security directive, issued in July 2021, requires these owners and operators to (1) implement specific mitigation measures to protect against ransomware attacks and other known threats to information technology and operational technology systems; (2) develop and implement a cybersecurity contingency and recovery plan; and (3) conduct a cybersecurity architecture design review. TSA is committed to enhancing and sustaining cybersecurity in transportation and intends to issue a rulemaking to codify these and other requirements for certain surface transportation owner-operators.

*Amending Vetting Requirements for Employees with Access to a Security Identification Display Area.* The FAA Extension, Safety, and Security Act of 2016 mandates that TSA consider modifications to the list of disqualifying criminal offenses and criteria, develop a waiver process for approving the issuance of credentials for unescorted access, and propose an extension of the look back period for disqualifying crimes. Based on these requirements, and current intelligence pertaining to the “insider threat,” TSA is developing a proposed rule. The rule would revise current vetting requirements to enhance eligibility and disqualifying criminal offenses for individuals seeking or having unescorted access to any Security Identification Display Area of an airport.

### **United States Immigration and Customs Enforcement**

U.S. Immigration and Customs Enforcement (ICE) is the principal criminal investigative arm of DHS and one of the three Department components charged with the criminal and civil enforcement of the Nation's immigration laws. Its primary mission is to protect national security, public safety, and the integrity of our borders through the criminal and civil enforcement of Federal law governing border control, customs, trade, and immigration. During the coming fiscal year, ICE will focus rulemaking efforts on regulations pertaining to adjusting fees, including the rule mentioned below.

*Fee Adjustment for U.S. Immigration and Customs Enforcement Form I-246, Application for a Stay of Deportation or Removal.* ICE will propose a rule that would adjust the fee for adjudicating and handling Form I-246, Application for a Stay of Deportation or Removal. The Form I-246 fee was last adjusted in 1989. After a comprehensive fee review, ICE has determined that the current Form I-246 fee does not recover the full costs of processing and adjudicating Form I-246. The rule will also clarify the availability of Form I-246 fee waivers.

### **Cybersecurity and Infrastructure Security Agency**

The Cybersecurity and Infrastructure Security Agency (CISA) is responsible for leading the national effort to develop cybersecurity and critical infrastructure security programs, operations, and associated policy to enhance the security and resilience of physical and cyber infrastructure.

*Ammonium Nitrate Security Program.* This rule implements a 2007 amendment to the Homeland Security Act. The amendment requires DHS to “regulate the sale and transfer of ammonium nitrate facility ... to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.” CISA published a Notice of Proposed Rulemaking in 2011. CISA is planning to issue a Supplemental Notice of Proposed Rulemaking.

A more detailed description of the priority regulations that comprise the DHS regulatory plan follows.